

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NEW YORK

23-CV-5988-EK

Joshua Adam Schulte,

Case No. _____

Plaintiff,

- v -

Warden, Metropolitan Detention Center (MDC),

Defendant.

BROOKLYN OFFICE

★ AUG 03 2023 ★

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

FILED

SP → 8/3/23

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241 TO CHALLENGE
PRETRIAL CONDITIONS OF CONFINEMENT

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I. The Parties to this Complaint

A. Plaintiff

Joshua Adam Schulte #79471034

Metropolitan Detention Center (MDC)

P.O. Box 329002

Brooklyn, New York 11232

B. Defendant

Warden, MDC

(Seeking habeas injunctive relief)

II. Basis for jurisdiction

28 U.S.C. § 2241, MDC is within the EDNY; hence this Court has jurisdiction and this is the proper venue.

III. Prisoner status - Pretrial detainee pending trial, sentence

IV. Statement of Claim

The Attorney General imposed Special Administrative Measures (SAMs) on Plaintiff in 2016 due to "national security" reasons. One part of the SAMs requires all of Mr. Schulte's INCOMING mail to be checked by the FBI to ensure Mr. Schulte did not disclose national defense information — again, in his INCOMING mail — which is simply not possible. Even assuming the government can check Mr. Schulte's outgoing mail,

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there is simply no legitimate penological interest in detaining, delaying, and receiving Mr. Schulte's INCOMING mail for national defense information as it is not possible for Mr. Schulte to disclose NDI in mail that he receives.

The Supreme Court in *Turner v. Safley*, 439 U.S. 79, 89-91 (1978), established the standard of review for constitutional challenges to prison regulations: "When a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." *Id.* at 89.

Conducting the four-factor *Turner* test in this instance results in the undisputed "exaggerated" concern. Mr. Schulte has a First Amendment right of access to his mail and a Fifth Amendment right to Due Process concerning contemporaneous mail delay — he cannot be arbitrarily subject to different conditions than other General Population inmates, and also has an interest in access to the courts. Whatever legitimate interest the government has in national security is completely exaggerated when Mr. Schulte's incoming mail is involved — particularly mail from the courts and his attorneys — which are significantly delayed for no legitimate reason; Mr. Schulte's SAMs is authorized for national security only, and there is no possible way he can write classified information in mail he receives.

Accordingly, the SAMs condition dictating the detaining, receiving, and delay of Mr. Schulte's incoming mail is unconstitutional.

V. Injuries

Mr. Schulte has suffered substantial injuries for years. His mail is delayed by 4-6 weeks, including mail from the courts

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and legal mail. This impacts his constitutional right of access to the courts and has resulted in many dismissed/denied motions and even impacted entire civil litigations and appeals. Moreover, it impacts his ability to ~~map~~ engage in his own defense in his criminal trial.

RELIEF VI.

Mr. Schulte seeks injunctive habeas relief; the Court should vacate the incoming mail provisions of his SAMs as there are no legitimate penological interests reasonably related to the national defense SAMs, particularly legal mail and court correspondence.

VII. Exhaustion of Administrative Remedies

Mr. Schulte exhausted all administrative remedies. He first filed a BP-B on April 27, 2023, but did not receive a response in 20 days. He was refused the next form, the BP-D, and told to resubmit the BP-B which he did May 31, 2023. ~~When~~ He did not receive a response nor permitted a BP-D. Accordingly, all available administrative remedies were exhausted.

VIII. Certification and Closing

I certify that to the best of my knowledge, information, and belief that this complaint fully complies with all requirements of Fed. R. Civ. P. 11.

I agree to provide the clerk's office with any changes to my address where case-related papers may be kept.

Dated: Brooklyn, New York
7/17/23

Joshua Adam Schulte
JAS

Josh Schulte #79471254
MDC
P.O. BOX 329022
Brooklyn, NY 11232

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